

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:CR-00-278-01
	:	
	:	
v.	:	
	:	
	:	
CURTIS MCKEITHAN	:	

MEMORANDUM

Before the court is a motion by Defendant to overturn his conviction. He contends that the federal statute upon which he was convicted of violating was beyond Congress's constitutional authority to enact. Defendant does not state in his motion by what authority he comes before this court for relief. He claims his conviction and sentence violated his constitutional rights.

The presumptive means for a federal prisoner to challenge the validity of a conviction is pursuant to 28 U.S.C. § 2255. *In re Dornsainville*, 119 F.3d 245, 249 (3d Cir. 1997). Thus, this court will assume that Defendant comes before this court pursuant to 28 U.S.C. § 2255.

A review of the record shows that Defendant was sentenced on December 20, 2001. The record further shows that he filed a previous § 2255 motion on December 31, 2003. Under the Antiterrorism and Effective Death Penalty Act, certain limitations are imposed on bringing § 2255 motions and filing successive motions pursuant to § 2255. One limitation is that § 2255 motions must be filed within one year of a conviction or within three other narrowly tailored situations, whichever is latest. 28 U.S.C. § 2255(f)(1), (2), (3) & (4). Another limitation is that a second or

successive § 2255 motion can only be made if the appropriate court of appeals approves the filing of such a motion. 28 U.S.C. § 2255(h)(1) & (2). Defendant cannot meet these requirements. The fact that Defendant cannot satisfy these limitations does not show that relief under § 2255 is inadequate or ineffective. *Okereke v. United States*, 307 F.3d 117, 120 (3d Cir. 2002).

Defendant's motion is not properly before this court as this court lacks jurisdiction. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: September 28, 2011.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:CR-00-278-01
	:	
	:	
v.	:	
	:	
	:	
CURTIS MCKEITHAN	:	

ORDER

In accordance with the accompanying memorandum, **IT IS HEREBY ORDERED THAT** the motion to “Overturn the Conviction Due to a Federal Violation of Jurisdiction When the U.S. Congress Exceeded its Constitutional Authority in title 18 U.S.C. § 3231 . . .” is **DISMISSED** for lack of jurisdiction.

s/Sylvia H. Rambo
United States District Judge

Dated: September 28, 2011.